IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

S.A.O. No. 45 of 2005
Date of decision : 4.12.2006

Sant Finance & Investment Co.

.....appellant.

Versus

Bharat Singh

.....Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Rajnish Narula,Advocate
for the appellant.

Mr. Neeraj Khanna, Advocate
for the respondent.

****

VINOD K. SHARMA,J.(ORAL)

Present appeal has been filed against the order dated 11.4.2005 passed by the learned District Judge, Kurukshetra vide which appeal filed by the respondent plaintiff has been allowed.

The plaintiff had brought his suit for rendition of accounts with a consequential relief of permanent injunction. The petitioner filed an application under Section 8 of the Arbitration and Conciliation Act, 1996 for stay in the suit and referring the parties to Arbitration. It is not disputed that along with the application an agreement dated 14.9.2001 was placed on record which was perused by the learned trial Court and view of the existence of Arbitration clause, the parties were referred to the Arbitration. While referring the parties to arbitration the suit was ordered to be dismissed. However, no decree was drawn. The order passed by the learned

trial Court was challenged by the respondent before the District Judge, Kurukshetra by treating it to be a decree of the Court. The learned appellate Court has allowed the appeal primarily on the ground that the original or certified copy of the agreement was not placed on record and, therefore, the application moved was in violation of statutory provisions of Section 8(2) of the Arbitration and Conciliation Act, 1996, therefore, the application was liable to be dismissed. The order passed by the learned lower appellate Court cannot be sustained firstly, no appeal was competent against order passed under Section 8(2) of the Arbitration and Conciliation Act, 1996 as no appeal is provided under Section 37 of the Act against the said order. Even otherwise in view of the law laid down by the Hon'ble Calcutta High Court in case ***ITC Classic Finance Ltd. Versus Grapco Mining & Co. Ltd. 1998(2) Raj 141 (Calcutta) Calcutta High Court*** the application accompanied by xerox copy of the lease agreement fulfill the requirement of Section 8(2) of the Arbitration and Conciliation Act, 1996. In the present case copy of agreement was placed on record along with application, hence, provisions of Section 8(2) of the Act were complied with.

Thus, appeal is allowed and the impugned order is set aside and that of the trial Court is restored.

4.12.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**